

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES,
Plaintiff,

vs.

GARY STEPHEN MAYNARD,
Defendant.

Sacramento, California
No. 3:21-mj-00007-DMC
Tuesday, August 10, 2021
2:06 p.m.

TRANSCRIPT OF PROCEEDINGS
INITIAL APPEARANCE
BEFORE THE HONORABLE KENDALL J. NEWMAN, MAGISTRATE JUDGE

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APPEARANCES:

For the Plaintiff:

UNITED STATES ATTORNEY'S
OFFICE
501 I Street, Suite 10-100
Sacramento, CA 95814
By: MICHAEL DWIGHT ANDERSON
Assistant U.S. Attorney

For the Defendant:

OFFICE OF THE FEDERAL
DEFENDER
801 I Street, Third Floor
Sacramento, California 95814
By: CHRISTINA SINHA
Assistant Federal Defender

(Appearances continued on following page)

*Proceedings recorded by electronic sound stenography;
transcript produced by official court reporter*

APPEARANCES (Continued):

Court Recorder:

Danielle Weisel
U.S. District Court
501 I Street
Sacramento, CA 95814

Transcribed by:

Thresha Spencer, CSR, RPR
U.S. District Court
501 I Street
Sacramento, CA 95814

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1 SACRAMENTO, CALIFORNIA, Tuesday, August 10, 2021, 2:06 p.m.

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3 (In open court.)

4 THE CLERK: Calling magistrate case 3:21-MJ-007-DMC;
5 United States versus Gary Stephen Maynard, on for initial
6 appearance.

7 THE COURT: And good afternoon again. I am Judge
8 Newman.

9 If I could please have appearances for the record, starting
10 with government's counsel.

11 MR. ANDERSON: Good afternoon, your Honor. Michael
12 Anderson on behalf of the United States, and we consent to
13 proceed by Zoom.

14 THE COURT: Good afternoon, Mr. Anderson.
15 And for the defendant.

16 MS. SINHA: Good afternoon, your Honor. Christina
17 Sinha from the Federal Defender's Office, seeking appointment
18 to represent Mr. Gary Stephen Maynard. He does appear to
19 qualify, and both of us consent to proceeding via Zoom.

20 THE COURT: And good afternoon, Ms. Sinha.
21 Good to see you, Mr. Maynard, good afternoon.

22 First, let me say, Ms. Sinha, you've raised the bar to a
23 whole new level with your email in defense of these cases,
24 extremely helpful, so you're welcome to encourage your
25 colleagues to do the same.

1 Mr. Maynard, we are here because criminal charges have been
2 filed against you in a criminal complaint. Before turning to
3 that, you do have certain rights as a result.

4 First, you have the right to be represented by an attorney.
5 That includes a right to hire an attorney of your own choosing
6 if you can afford an attorney, but if you cannot afford an
7 attorney, one will be appointed to represent you.

8 Do I gather, Ms. Sinha, that he qualifies for appointment
9 of counsel?

10 MS. SINHA: Yes, your Honor.

11 THE COURT: Based upon that request and
12 representation, the financial affidavit that you have or will
13 be filling out, I find him qualified for appointment of
14 counsel, and I'm going to appoint Ms. Sinha and the Office of
15 the Federal Defender to represent you in this matter.

16 Additionally, sir, you have the right to remain silent.
17 You're not required to make any statements here today, and I
18 must caution you if you make any statements, they could be used
19 against you not only today but in future proceedings in this
20 matter.

21 Finally, as a result of the charge in this case, you have
22 the right to a preliminary hearing within 14 days of hearing
23 in-custody, 21 days if you're out of custody, unless you waive
24 that time frame.

25 At the preliminary hearing, the government will be required

1 to present evidence to establish probable cause that the
2 charged offense was committed and that you committed it.

3 However, if a grand jury returns an indictment against you,
4 that takes the place of that preliminary hearing, you'll then
5 be informed of the charges brought against you by the grand
6 jury.

7 Ms. Sinha, have you received a copy of the criminal
8 complaint and affidavit, had an opportunity to review it with
9 Mr. Maynard, and would you waive a formal reading?

10 MS. SINHA: Yes to all, your Honor.

11 THE COURT: Thank you.

12 Consequently, sir, I'm not going to read the whole
13 complaint and affidavit to you, but it does charge you with
14 setting fires or setting a fire timber on federal lands in
15 violation of 18 U.S.C. 1855. If convicted of that offense, you
16 face a maximum of up to five years imprisonment, a fine of up
17 to \$250,000, a three-year term of supervised release,
18 restitution, and a \$100 special assessment.

19 But I also need to caution you, this isn't a charge brought
20 against you in this complaint only and may or may not be the
21 charges ultimately brought against you in this case.

22 Let's pick up the issue of the defendant's release or
23 detention. In that regard, I have received and reviewed a
24 Pretrial Services report. I also received a filing by the
25 government recommending Mr. Maynard's detention, and then I

1 received a communication from Ms. Sinha indicating that she
2 would like some additional time before the Court addresses
3 that.

4 Is that -- so let's cross our T's and dot our I's.

5 So Mr. Anderson first. Is the government moving for
6 Mr. Maynard's detention?

7 MR. ANDERSON: Yes, your Honor. The government is
8 moving on both dangerousness and flight risk grounds for the
9 reasons set forth in the government's filing and in the
10 Pretrial Services report.

11 There simply are no conditions that could be fashioned that
12 would ensure the safety of the public with respect to this
13 defendant.

14 THE COURT: Ms. Sinha?

15 MS. SINHA: Yes, your Honor. We have not had an
16 opportunity to -- because of the timing that he was arrested
17 on, it was not possible for Pretrial Services to interview him.
18 We have been in communication with Pretrial Services. That
19 interview will hopefully happen via telephone tomorrow at
20 9 a.m., depending on whether the jail makes that happen on
21 their end. And so we are asking to come back to address the
22 issue of release tomorrow on the duty calendar.

23 THE COURT: All right.

24 Mr. Maynard, when you come before the Court, I have to
25 decide if you're a flight risk, whether or not you will make

1 all of your court appearances, or a danger to the community,
2 and whether or not conditions can be fashioned to address any
3 of those concerns.

4 At this point I'm not going to make those determinations,
5 I'm going to just order you temporarily detained. I want to
6 give you and your counsel time to talk to Pretrial Services and
7 address the Court's concerns to put it in the best possible
8 light, so you'll be back before me at 2 p.m. tomorrow for a
9 detention hearing.

10 Ms. Sinha, I obviously do not prejudge anything. But just
11 based on what I've read, there is a question in my mind that
12 you may want to help address in terms of whether or not we may
13 be looking at any mental health issues.

14 And, Mr. Maynard, I'm not saying that to disparage you, I'm
15 just saying there's certainly some potential, if not red flags,
16 pink flags that I'd like Ms. Sinha and Pretrial Services to be
17 looking into, and I don't need to address that any more today.

18 And since I have ordered him at least temporarily detained,
19 I'm going to order that the next court hearing, that
20 preliminary examination, will be on August 24th before the duty
21 magistrate judge at 2 p.m. That will be Judge Delaney that
22 day.

23 I also want to remind government's counsel of its
24 obligations to comply with *Brady v. Maryland* and its progeny,
25 and failure to do so could result in sanctions and a written

1 order will follow.

2 So Mr. Maynard's next court appearance will be before me at
3 2 p.m. tomorrow for a detention hearing, and then August 24th
4 at 2 p.m. before Judge Delaney for the preliminary examination.

5 What else today, Mr. Anderson?

6 MR. ANDERSON: Nothing further from the government at
7 this time, your Honor. Thank you.

8 THE COURT: Ms. Sinha, anything further today?

9 MS. SINHA: No, your Honor, thank you.

10 THE COURT: Thank you. Mr. Maynard, good luck to
11 you. We'll see you tomorrow. I do want to alert it may be
12 Judge Cota covering the calendar tomorrow, so don't be
13 surprised if you see Judge Cota at 2 p.m.

14 All right. Thank you.

15 THE CLERK: Do we need to address shackling at all,
16 Judge?

17 THE COURT: What I'm going to address in that regard,
18 sir, as long as things continue by Zoom, I'm not going to order
19 any additional prisoner restraint levels.

20 If they're moving him within the jail, you know, to this
21 room for your Zoom without restraints, I'm not going to order
22 anything additional, as long as you're on best behavior. If we
23 get any reports from jail personnel or the marshals that you're
24 acting out, that can quickly change.

25 Do you understand that, sir?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. Very good. See you tomorrow.

3 Thank you.

4 Thank you, Alex.

5 (Proceedings adjourned: 2:13 p.m.)

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7 I, court-approved transcriber, certify that the foregoing
8 is a correct transcript from the official electronic recording
9 of the proceedings in the above-entitled matter.

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11 /s/ Thresha Spencer
12 THRESHA SPENCER
13 CSR No. 11788, RPR

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